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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/503,532	02/14/2000	William Y. Hall	blbv-24.759	6743

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EXAMINER	
JANVIER, JEAN D	

ART UNIT	PAPER NUMBER
3622	

DATE MAILED: 06/16/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	09/503,532	HALL, WILLIAM Y.	
	Examiner	Art Unit	
	Jean Janvier	3622	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☐ Responsive to communication(s) filed on _____.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-4,8,9,11-19,23,24 and 26-30* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-4, 8, 9, 11-15, 16-19 and 23, 24, 26-30* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

Response To Applicant's Amendments

The Examiner approves the amendments to the claims and the new claims.

Detailed Action

Specification

Status of the claims

Claims 1-4, 8, 9, 11-15, 16-19 and 23, 24, 26-30 and new claims 39-49 are being prosecuted on the merits and claims 5-7, **10**, 20-22, **25** and **31-38** are canceled.

General Comments

Regarding claim 14, in examining the claim, the Examiner considers whether or not the structure of the prior art, as shown below, is capable of performing the functions recited in the claim. Further, for examination purpose, the claim is broadly interpreted.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351 (a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1-4, 8, 9, 11-14, 15, 16, 17, 18, 19 and 23, 24, 26-29, 30 and 39-49 are rejected under 35 U.S.C. 102(e) as being anticipated by Terranova, US Patent 6,422,464B1.

As per claims 1-4, 8, 9, 11-14, 15, 16, 17, 18, 19 and 23, 24, 26-29, 30 and 39-49, Terranova discloses a method of and a system for automatically providing customer preferences during a fueling operation (commercial transaction). The system includes a fuel dispenser with an audio/video customer interface having a display and audio system. Wireless communications electronics are associated with the dispenser and adapted to receive signals including indicia from remote communications units (such as transponders related to registered customers). A control system and memory are provided to receive an indicia or an ID from a remote communications unit and provide a customer with select information, predefined by the customer, at the customer interface. The selected information is chosen by the customer and associated with the remote communications unit prior to the transaction. Notably, the control system may include a dispenser controller, a central site controller, a control system associated with a remote network or any combination thereof (See abstract).

The present system is adapted to personalize a fueling operation on an individual customer basis (customized transaction). During a transaction, an interrogator will interrogate a transponder or a customer's remote communication unit **and receive customer preferences or profile for identification indicia, which will allow the dispenser or associated control system to access predefined customer preferences or profile associated with that transponder and customer (identifying a customer through a transponder during a commercial transaction and retrieve the customer's preferences or profile in order to display targeted information or programming to the customer during the transaction).** Typically, the preferences are determined early in the fueling or transaction operation. The information may be accessed as a customer approaches a dispenser to enable the control system to provide the identified customer with a personalized or customized programming such as personalized greeting, pre-selected information such as news, traffic, weather, scores or stock reports, in addition to providing customer-selected or customized advertising, merchandising or entertainment presentations prior to being issued a transponder or during a registration process (Presenting a customized programming including news or advertising to the customer during a commercial transaction). The customer may fill out an application or form, relating to the types of information, greetings and multimedia presentations he or she would be interested in receiving during a fueling operation. **The customer-selected information will be entered into a database associated with the transponder ID** or actually stored on the transponder in a format capable of instructing the dispenser or central control system to act accordingly during a transaction. Here, the customer's indicia include identification indicia and the select information is stored in the memory associated with the identification indicia of the remote communications unit or transponder. The control system is adapted to remotely and wirelessly access the selected information in the memory

of the customer's transponder upon receipt of the identification indicia and provide the select information at the customer interface accordingly during the commercial transaction or fueling transaction. **In another embodiment, the fuel control system may also be adapted to access the customer's select information, chosen during a registration process, at a remote network based on the indicia received from the remote communications unit or transponder and provide the select information to the customer interface. Additionally, the select information may be stored on an audio/visual source adapted for playback of audio/visual material** according to the pre-selected customer information. The select information may include news, **entertainment, advertising and merchandising** material. Furthermore, the customer may elect to receive an audible or visual greeting at or near the beginning of the transaction. The fuel control system may further be adapted to allow a customer to **modify (update) the predefined selected information or programming during** a transaction to receive different or additional information (modifying the programming information or predefined selected information based on input received from the identified customer at the commercial location during the transaction). Preferably, the customer interface will include a keypad and display for effecting such modification.

Moreover, Terranova discloses a method for automatically providing customer preferences during a fueling operation. The method includes receiving indicia from a customer's remote communications unit, determining select types of information (customer's preferences) predefined by the customer using the indicia, accessing (programming) information defined by the select types of information (or based on the customer's preferences or profile), and providing the information to the customer during

the transaction or fueling operation. The receiving step may further include receiving identification indicia for the remote communications unit and the accessing step may include accessing information according to the select types of information (customer's preferences or stored profile) in a database using the identification indicia. Notably, the information provided to the customer may be the indicia received from the transponder, such as a greeting, or the information may be selected or defined by the indicia received from the remote communications unit.

The system also provides an embodiment adapted to track the customer's transactions via a transponder throughout a number of fueling environments operatively associated with host network 94. The basic flow of transaction tracking is shown in FIG. 25 wherein a typical fueling operation begins (block 1400) by a transmission from the transponder of transponder identification indicia to the dispenser 18 (block 1410). **During the transaction, transaction information are received from the transponder and/or gathered by the dispenser and central control systems (blocks 1420 and 1430). The information received and gathered preferably includes information such as the type of transaction, the dollar amount per transaction, frequency of transactions, and the location of these transactions.** The information gathered by the central control system 50 may be relayed to the host network or major oil company network 94 (block 1440). The information is updated and compiled at the host network (block 1450) to enable study of customer activities and transactions. This information is very valuable **in presenting customized advertising and merchandising in the fueling environment to the identified customer.** Once the information is compiled at the network 94, the process is ended (block 1460) (customer's transactions data are used to update

the customer's profile data stored in a server database in order to present targeted advertising to the customer based on the updated profile). .

Moreover, the system monitors the customer's transactions not only to present targeted advertisements to the customer, but also to provide loyalty benefits to the customer. Indeed, loyalty benefits are provided to the customer based on the customer's current transaction, past transactions (purchase history), etc. The loyalty benefits may be stored in the memory of the customer's transponder, in the fuel controller database or in a host computer network database. Finally, the loyalty benefits may be redeemable during a current transaction or in subsequent transactions at a plurality of participating gas stations and transaction data associated with the redemption of the loyalty benefits are also monitored and used to update the customer's profile.

See cot. 1: 43 to cot. 2: 54; cot. 40: 22-33; cot. 36: 57 to cot. 37: 11; cot. 37: 41; cot. 14: 44 to cot. 18: 40.

Further, preferably, as discussed above, the indicia include identification indicia and the select information (advertising and update information, (news, weather reports, stock quotes, entertainment, etc.)) is stored in a memory (database) associated with the identification indicia (input device) of the remote communications unit. The control system of the dispenser is adapted to access the selected information in the memory upon receipt of the identification indicia and provide the select information at the customer interface accordingly. The control system may also be adapted to access the select information at a remote network (local system) based on the indicia received from the remote communications unit and provide the select information to the customer interface.

Additionally, the selection information may be stored on an audio/visual source 156 directly coupled to the fuel dispenser controller 80 of fig. 5 and adapted for playback of audio/visual material according to the pre-selected customer information (psychographic profile) retrieved from the remote or central database (storing the programming information in a local database related to the commercial location system). The select information may include news, entertainment, advertising and merchandising material. Moreover, the customer may elect to receive an audible or visual greeting at or near the beginning of the transaction. Further, the dispenser controller 80 has links to other data networks or systems besides the central or remote host database, including auxiliary source 156 (local system database) of fig. 5, where it can retrieve and display the select information (advertising and update information) on the dispenser interface to the identified customer during a transaction at the pump upon receiving the customer's preference information (customer's profile) from the central or remote host database subsequently to forwarding to the central or host database by the dispenser controller 80 the customer received indicia. The dispenser control system 80 of fig. 5 provides a graphical user interface with keypad 102 and display 100. Audio/video electronics 86 is adapted to interface with the dispenser control system 80 and an auxiliary audio/video source 156 to provide advertising, merchandising and multimedia presentations to a customer in addition to basic transaction functions. The graphical user interface provided by the dispenser allows customers to purchase goods and services other than fuel at the dispenser. Furthermore, the control system may be adapted to allow a customer to modify the predefined selected information (customer's profile or preferences) during a

transaction at the commercial location or at the pump in order to receive different or additional programming information (news, weather, advertising, etc.). To do so, the customer's interface, as depicted in fig. 5, includes a keypad 102 coupled to the fuel dispenser controller 80 and used by the identified customer to input the new choices or preference data in real-time, while conducting a transaction at the commercial location, wherein the new preference data (profile data) are used to update the customer's stored profile (at the central system) and to present different or updated programming to the identified customer based on the updated profile data (fig. 5; col. 2: 16: 16-54; col. 9: 9-35; col. 39: 16-19).

In short, the POS or commercial transaction system is configured to receive or retrieve, after receiving the customer's indicia or identification via the customer's input device or transponder, the customer's stored preferences (profile data) from a remote local system (remote computer or central computer or central site) over a network and to display customized programming, retrieved from a local database or audio/visual source 156, to the customer on the customer's interface or display screen coupled to the fuel dispenser based upon the customer's stored preferences (profile) transmitted by the remote system or central over a communication link. The process of coding (converting or encoding) the customer's preferences or profile data (converting the customer's profile information into a profile data (word)), from its analog format into a digital format, so that the profile information can be transmitted over the network (coax wire, telephone line or otherwise as herein expected) from the central site (remote local system), using a communication link such as a modem, to the local transaction POS where the received

profile data is decoded before the local POS locally retrieves and displays customized programming on the customer's interface, in accordance with the customer's received profile, is implicitly supported in the prior art (here, converting and decoding are synonyms of encrypting and decrypting). This step is similar to modulating and demodulating transmitted or received data as commonly practiced or performed in the telecommunication industry when data are transmitted over telephone lines (using a modem).

(Figs. 5 and 26; col. 2: 16: 16-54; col. 9: 9-35; col. 39: 16-1; col. 2: 16-57; col. 38: 9 to col. 42: 445).

Response to Arguments

First of all, Applicant argues that Terranova does not disclose converting the customer's profile information **into a "profile data word" and decoding the "profile data word" at the local transaction POS...** The Examiner completely and respectfully disagrees with the Applicant's findings. **Indeed, as discussed above, Terranova discloses, inter alia, a system wherein a customer's received indicia include identification indicia and the select information (advertising and update information, (news, weather reports, stock quotes, entertainment, etc.)) is stored in a memory (database) associated with the identification indicia of the customer's remote communications unit. The control system of the disclosed dispenser system is adapted to access the selected information in the memory upon receipt of the identification indicia and provide the select information at the customer interface accordingly. The control system may also be adapted to access the select information at a**

remote network (local system) based on the indicia received from the remote communications unit and provide the select information to the customer interface. Additionally, the selection information may be stored on an audio/visual source 156 directly coupled to the fuel dispenser controller 80 of fig. 5 and adapted for playback of audio/visual material according to the pre-selected customer information (psychographic profile) retrieved from the remote or central database (storing the programming information in a local database related to the commercial location system). The select information may include news, entertainment, advertising and merchandising material. Moreover, the customer may elect to receive an audible or visual greeting at or near the beginning of the transaction. Further, the dispenser controller 80 has links to other data networks or systems besides the central or remote host database, including auxiliary source 156 (local system database) of fig. 5, where it can retrieve and display the select information (advertising and update information) on the dispenser interface to the identified customer during a transaction at the pump upon receiving the customer's preference information (customer's profile) from the central or remote host database subsequently to forwarding to the central or host database by the dispenser controller 80 the customer received indicia. The dispenser control system 80 of fig. 5 provides a graphical user interface with keypad 102 and display 100. Audio/video electronics 86 is adapted to interface with the dispenser control system 80 and an auxiliary audio/video source 156 to provide advertising, merchandising and multimedia presentations to a customer in addition to basic transaction functions. The graphical user interface provided by the dispenser allows customers to purchase goods and services other than fuel at the

dispenser. Furthermore, the control system may be adapted to allow a customer to modify the predefined selected information (customer's profile or preferences) during a transaction at the commercial location or at the pump in order to receive different or additional programming information (news, weather, advertising, etc.). To do so, the customer's interface, as depicted in fig. 5, includes a keypad 102 coupled to the fuel dispenser controller 80 and used by the identified customer to input the new choices or preference data in real-time, while conducting a transaction at the commercial location, wherein the new preference data (profile data) are used to update the customer's stored profile (at the central system) and to present different or updated programming to the identified customer based on the updated profile data (fig. 5; col. 2: 16: 16-54; col. 9: 9-35; col. 39: 16-19).

In short, the POS or commercial transaction system is configured to receive or retrieve, after receiving the customer's indicia or identification via the customer's input device or transponder, the customer's stored preferences (profile data) from a remote local system (remote computer or central computer or central site) over a network and to display customized programming, retrieved from a local database or audio/visual source 156, to the customer on the customer's interface or display screen coupled to the fuel dispenser based upon the customer's stored preferences (profile) transmitted by the remote system or central over a communication link. The process of encoding (coding or converting) the customer's preferences or profile data (converting the customer's profile information into a profile data (word)), from its analog format into a digital format, so that the profile information can be transmitted over the network (coax wire, telephone line or

otherwise as herein expected) from the central site (remote local system), using a communication link such as a modem, to the local transaction POS where the received profile data is decoded before the local POS locally retrieves and displays customized programming on the customer's interface, in accordance with the customer's received profile, is implicitly supported in the prior art (here, converting and decoding are synonyms of encrypting and decrypting). This step is similar to modulating and demodulating transmitted or received data as commonly practiced or performed in the telecommunication industry when data are transmitted over telephone lines (using a modem-see enclosed evidence).

(Figs. 5 and 26; col. 2: 16: 16-54; col. 9: 9-35; col. 39: 16-1; col. 2: 16-57; col. 38: 9 to col. 42: 445).

Further, in "converting the profile information into a profile data word", it appears that there is no specific definition in the specification for the phrase "profile data word", which is not a common and well-known phrase and which is given the broadest interpretation here for examination purpose. In other words, the converting step is said to be ambiguous since there is no specific definition for "profile data word" and hence, the metes and bounds of the claims are not well defined.

Second, Applicant argues that claim 1 recites that the "updating information" and "advertising information" are merged "in accordance with the decoded profile information", where the "updated information" and "advertising information" were previously transmitted to

the select commercial transaction location (local transaction POS system) from the central location and stored at the select commercial location **prior to the commercial transaction** (between the identified customer and the select commercial location) and that Terranova fails to disclose the above claim limitations. Here, the updated information (news, weather, stocks) and the advertising information cannot be merged with respect to the decoded profile information and stored at the select commercial location prior to the transaction per se since the updated information and advertising information were previously transmitted to the local transaction POS and stored thereon long before the customer visits the local POS to conduct a transaction. In fact, the step of converting or coding the customer's profile information into a "profile data word" and decoding the "profile data word" takes place only after the customer's indicia was received at the local POS and transmitted to the central site, which provides or transmits the customer's profile data to the local POS. In his case, the updated information and advertising information cannot be merged, based on the decoded profile, and previously transmitted and stored at the local POS, since the customer was not yet identified and hence, the profile data were not provided by the central site. In general, the latter claim limitations were interpreted as --receiving at a local POS a customer's indicia from the customer input device, transmitting by the local POS the received indicia to a central site, which provides the customer's preferences or profile data to the local POS, retrieving by the local POS from its memory or an audio/visual source 156 updated information (stocks, news, weather, etc.) and/or advertising information, previously transmitted and stored locally, and displaying the retrieved (merged) updated information and/or advertising information on the customer's interface coupled to the local POS system--. The latter interpretation is readily supported and described in the above Office Action.

Finally, features that are inherent in the art or widely used in the industry need not be disclosed in a reference in order for these features to be anticipated by the current prior art; in other words, failure of those skilled in the art to contemporaneously recognize an inherent property, function or ingredient of a prior art does not preclude a finding of anticipation (MPEP 2131.01 (III).

Therefore, the Applicant's request for allowance or withdrawal of the last Office Action has been fully considered and respectfully denied in view of the foregoing response since the Applicant's arguments as herein presented are not plausible and thus, the current **Office Action has been made Final.**

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

US Patent 6,082,500A to Amo discloses a display apparatus within elevator cabs or elevator waiting areas that facilitates the simultaneous display of advertising and general news information is described. Broadcast from a remote control center, advertising and general news information updates are transmitted to, and stored in a server located within a building and then forwarded to a display memory and subsequently displayed on a monitor according to a remotely modifiable program schedule. The display is updated such that it contains a copy of the latest

broadcast schedule, as well as the advertisement and information programming, and automatically displays a days program according to the most current broadcast schedule. The display units as well as the building server are each individually addressable thus allowing groups of displays to be simultaneously updated from a remote centralized location with information such as news updates, customized advertising information and the like (See abstract).

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication from the Examiner should be directed to Jean D. Janvier, whose telephone number is (571) 272-6719. The aforementioned can normally be reached Monday-Thursday from 10:00AM to 6:00 PM EST. If attempts to reach the Examiner

by telephone are unsuccessful, the Examiner's Supervisor, Mr. Eric W. Stamber, can be reached at (571) 272- 6724.

Non-Official- 571-273-6719

JDJ

06/09/06

Jean D. Janvier

Patent Examiner

Art Unit 3622

JEAN D. JANVIER
PRIMARY EXAMINER